

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

W.P. NO.7863 OF 1998

BETWEEN:

S.M.D.Rasool son of Dastagiri Saheb

... petitioner

Vs.

The General manager, Anantapur District Cooperative Central
Bank Ltd., and others.

...respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

W.P. NO.7863 OF 1998

ORAL ORDER

In substance, the petitioner seeks a direction to the

respondents to pay him the time scale of pay attached to the post of Attender with effect from 21-01-1995, the date with effect from which his service was regularized as an Attender by a resolution of the managing committee No.42, dated.21-01-1995.

According to the petitioner, he initially joined the service of the Anantapur District Cooperative Central Bank Ltd., as a Counter Boy on daily wages from 07-12-1984 and was posted to the Guntakal branch. After working some time at the Kadiri branch and at the Uravakonda branch, he was posted as an Attender at the Pamidi branch, Anantapur District, since 1989. He submitted a representation to the management for regularization of his service as an Attender with effect from 19-08-1999 and for extending him the time scale of pay attached to the post of Attender. Through the Board's resolution No.42 dated.21-01-1995 the petitioner claims, the management of the bank regularized his service with effect from 21-01-1995. He was however not paid the time scale of pay. In the circumstances the writ petition is filed seeking the relief already adverted to.

It requires to be noticed that in the writ petition the Anantapur District Cooperative Central Bank is not impleaded as a party. The General Manager and the President of the said Bank are arrayed as respondent Nos.1 and 2. The Branch Manager of the Pamidi branch is depicted as respondent No.3.

The 1st respondent has filed a counter-affidavit denying the allegations. To the extent relevant and material, the counter reads:

"I deny the allegations made in para3 of the affidavit. I submit that the then Board of Management before the expiry of their term and in spite of the dissent note from the General Manager and District Cooperative Officer, passed a resolution No.42, dated.21-01-1995

regularizing the services of the 22 consolidated daily wage and contingent employees even though there were no vacancies. The then President of the bank without following the administrative procedure has issued the proceedings. The issue of the Board resolution and the proceedings issued by the President were brought to the notice of the Commissioner for Cooperation and Registrar of Cooperative Societies. The Addl.Registrar of Cooperative Societies was pleased to issue proceedings in Rc.No.6201/95/C3 dated.30-1-1995 directing not to implement the resolution of the Board of Management of the Bank in their meeting held on 21-1-1995 who were irregularly appointed in excess of the sanctioned staff. In pursuance of the same the proceedings have been issued on 14-4-1995, which were communicated, to the petitioner herein stating that the orders of the President are not being implemented as per the directions of the Addl. Registrar, Commissioner for Cooperation and Registrar of Cooperative Societies. I submit that the copy of the orders passed by the Addl.Registrar, Commissioner for Cooperation and Registrar of Cooperative Societies was also communicated to the petitioner and other persons whose services are regularized.

6. I submit that though the petitioner received the copy the petitioner has not disclosed the same and suppressed the facts. It is mentioned in the affidavit as if the proceedings issued by the President are still in force and questioning our action in not implementing the same the present writ petition has been filed. I submit that on this ground alone the writ petition has to be dismissed for suppression of facts. Apart from it the petitioner has sought for implementation of the resolution of the Board which has been suspended by the Addl. Registrar of Cooperative Societies. I submit that the writ petition filed without questioning the orders of the Addl. Registrar of Cooperative Societies in suspending the resolution of the Board and the consequential order of this respondent bank is not maintainable and the same has to be dismissed.”

In substance the case of the respondents is that the

petitioner is only a daily wage employee and his service was not regularized in view of the order of suspension of the Board's resolution, by the Additional Registrar of Cooperative Societies, which order has not been challenged by the petitioner despite having received a copy of the said order.

There are no merits in this writ petition. Not only has the petitioner failed to implead the Anantapur District Cooperative Central Bank as a party respondent in this writ petition but he has suppressed the material fact that an order was passed by the Additional Registrar of Cooperative Societies suspending the Board's resolution No.42. The assertion in the counter-affidavit by the 1st respondent that these proceedings were served on the petitioner, has not been denied by the petitioner.

For the aforesaid reasons the writ petition deserves to be rejected. As the petitioner has approached the Court suppressing material facts, this Court considers it appropriate to dismiss the writ petition with costs of Rs.2,500/-(Rupees Two Thousand and Five Hundred only).

GODA RAGHURAM,J

18TH APRIL 2007

*TSNR